

Judiciary Committee

Honorable Rep. Jim Runestad, Chair

DATE: Tuesday, June 20, 2017

Dear Judiciary Committee members,

**National Family Court Watch Project opposes Michigan HB 4691 Mandate Joint Custody,**

Good Morning. My name is Renee Beeker. I am President of the National Family Court Watch Project. The NFCWP is the first known program to use a standardized observational instrument nationwide. We have been in six states and three counties, with over 400 observations in the state of Michigan. We observe and report trends that the data collection reveals. The ultimate goal is to work with the public and judicial system to create methods and procedures that help resolve the problems we are finding in family courts. Issues we have observed will not be solved with mandated joint custody but with access to the court and system changes that address the needs of the public and especially families.

For over twenty years I have worked on this issue in various committees, capacities and organizations, not to mention my own personal experience. I have seen similar mandated joint custody bills in Michigan come up year after year and it is still a bad idea.

House Bill 4691 will override the decisions of the majority of Michigan Parents. It is reported that roughly 95 percent of divorcing parents with children agree to their custodial arrangements. The remaining cases, often referred to as "high conflict" according to research (Sanders/Faller 2016 article in Michigan Law Journal below), "are actually cases of domestic abuse". According to Barry Goldstein, "Practices that Risk Children Baked into Court Procedures", these remaining cases often "require the courts involvement for trial". These are the cases that should not have automatic mandated joint custody, but should be reviewed by the court to determine the safety and best interest of the child/ren. It is very important to assess these "high conflict" cases for possible issues of domestic abuse.

House Bill 4691 will take custodial decision making from all Michigan Families. Legislating and mandating custody, a one size fits all solution, may not be the best fit for most Michigan families or in the best interest of Michigan's children. A mandate is placing at risk the safety of victims in the cases that really should be before a judge from the very beginning. **Mandated joint custody, will result in opening the door to danger for the group most in need of protection. Victims of abuse will be placed in a situation of having to prove abuse, disarming protection This will further burden those who most cannot afford to enter into the court.**

Our project data while still being evaluated is greatly concerned with abuse issues we have seen show up in cases even more than five years after the case began. Suggesting to us that violence issues are not fully addressed in the beginning of a case.

Mandated Joint Custody will silence the voice of Michigan parents. How many "intact" families actually share child care duties in a 50/50 split? (I would argue very few) Mandating a 50/50 custody from divorcing families will not see that result either.

There are many issues at play here such as parents who live out of state, parents work that takes them out of state or out of the country, parents living in two different school districts. Even larger issues have come into focus as you have heard from others who oppose this bill. This committee has already heard that other states such as California and Oregon tried and ended mandated joint custody.

Families are fluid; they grow and change. Children have different needs at various stages in their lives. Children are involved in activities, travel with their school out of the state perhaps out of the country, as exchange students or to get a job. All these things are difficult to manage with a family that is living together. With a mandate requiring shared parenting, it becomes even more difficult with a child in two different homes. Children do not always do well in two homes. I personally recall a friend of my daughters sitting down and crying "I don't know what house I will be at" when asked about a play date.

Mandating 50/50 custody or even 60/40 can have problems arise aside from violence and child protection needs. Children involved in activities that the other parent will not allowed on their custodial time, parents winding up with their children 100 percent of the time and no additional support, and afraid to go back to court to remedy this problem, children sick at one home, but not taken to a doctor until after they are taken home to the other parent, who then has to pay the doctor bill. Children needing glasses, braces, tutors, sports fees and the argument who pays, while there is one who is may not be unable to do so. The idea that we can “fix it all” with a mandate will only result in far more litigation resulting in resources being used in litigation and not for children. This does not seem like a solution at all.

The best custodial arrangement that works, is the one parents agree on. A 50/50 mandated custodial requirement will take away the agreements some 95% of families have already made.

The National Family Court Watch Project urges this committee to vote NO on HB 4691. Allow Michigan families the right to determine the best custodial arrangement for their family. When they can't, we need the eye of the court to protect the best interest of children.

You will find links below to articles, additional research and more information to support this testimony.

Thank you for your consideration.

Sincerely,

Renee Beeker President

National Family Court Watch Project

[www.NFCWP.org](http://www.NFCWP.org)

There is data to show that mandating joint custody has not worked. Australia with shared parenting have found problems, parents who do not co parent do not do well with shared care:  
<http://www.smh.com.au/federal-politics/political-opinion/reports-show-shared-care-needs-fixing-20100203-nd7a.html>

Arguments against Joint Custody September 2013

Dianne Post

<http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1033&context=bglj>

National Council of Juvenile and family Court Judges Judicial Guide to Child Safety in Custody Cases. [http://www.ncjfcj.org/sites/default/files/judicial%20guide\\_0\\_0.pdf](http://www.ncjfcj.org/sites/default/files/judicial%20guide_0_0.pdf)

Saunders & Faller Child Custody Evaluators' Beliefs About Domestic Abuse Allegations: Their Relationship to Evaluator Demographics, Background, Domestic Violence Knowledge and Custody Visitation Recommendations <https://www.ncjrs.gov/pdffiles1/nij/grants/238891.pdf>

The Need to Carefully Screen for Family Violence When Parental Alienation is Claimed. By Daniel G. Saunders, Ph.D. and Kathleen Coulborn Faller, Ph.D available here  
<file:///C:/Users/Public/Documents/AOL%20Downloads/cisionsinDomesticViolenceCases-VAWnetSaunders2007Secured/refullyscreenforfamilyviolencewhenPAisclaimedMFLJ-secure.pdf> Published in Michigan Family Law Journal Vol 46,NO 6,Page 8 of 7-11. June/July 2016

Adjudicating Domestic Violence Custody Cases: What Judges Must Know by Barry Goldstein  
<http://stopabusecampaign.org/2017/06/14/adjudicating-domestic-violence-custody-cases-what-judges-must-know>

Goldstein: <http://stopabusecampaign.com/practices-that-risk-children-baked-into-court-procedures-part-2/>

<http://www.stopfamilyviolence.org/info/custody-abuse/overview/the-illusion-of-protection/>

Published May 1, 2006 by Domestic Violence Report  
The Illusion of Protection  
by Renee Beeker